

ESTTA Tracking number: **ESTTA712157**

Filing date: **12/02/2015**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Jennifer Macaluso
Granted to Date of previous extension	12/02/2015
Address	106 Tilson Place Staten Island, NY 10305 UNITED STATES
Attorney information	Ron Lazebnik Lincoln Square Legal Services, Inc. 150 West 62nd Street, 9th Floor New York, NY 10023 UNITED STATES rlazebnik@lsls.fordham.edu Phone:212-636-6934

Applicant Information

Application No	86353585	Publication date	08/04/2015
Opposition Filing Date	12/02/2015	Opposition Period Ends	12/02/2015
Applicant	Lesilu Productions, Inc. 60 West 38th Street, 3rd Floor New York, NY 10018 UNITED STATES		

Goods/Services Affected by Opposition

Class 014. First Use: 2004/06/30 First Use In Commerce: 2004/06/30

All goods and services in the class are opposed, namely: Jewelry, namely, earrings, rings, diamonds, necklaces, chains, bracelets, brooches, pins, and watches

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	4380027	Application Date	12/28/2012
Registration Date	08/06/2013	Foreign Priority Date	NONE
Word Mark	HEY, DOLLFACE!		

Design Mark	Hey, Dollface!
Description of Mark	NONE
Goods/Services	Class 014. First use: First Use: 2008/05/00 First Use In Commerce: 2008/10/00 Jewelry

Related Proceedings	91224435
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Attachments	85811925#TMSN.png(bytes) 20151202154017.pdf(258499 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Ron Lazebnik/
Name	Ron Lazebnik
Date	12/02/2015

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Trademark Application Serial No. 86353585
For the mark HEY DOLL
Published in the *Official Gazette* on August 4, 2015

Jennifer Macaluso,

Opposer,

v.

Lesilu Productions, Inc.,

Applicant.

Opposition No.: _____

NOTICE OF OPPOSITION

Jennifer Macaluso, an individual with an address of 106 Tilson Place, Staten Island, NY 10305 (“Opposer”), believes that she will be damaged by the registration of the mark HEY DOLL (“Applicant’s Mark”) shown in the above-identified application filed by Lesilu Productions, Inc., a New York corporation with an address of 60 West 38th Street, 3rd Floor, New York, NY 10018 (“Applicant”). Therefore, Opposer hereby opposes the registration of Applicant’s Mark in International Class 14.

The grounds for opposition are as follows:

1. Opposer owns U.S. Trademark Registration No. 4380027, issued August 6, 2013, for the word mark HEY, DOLLFACE! (“Opposer’s Mark”) for use in connection with jewelry in International Class 14. Opposer has been using the mark HEY, DOLLFACE! in connection with jewelry since at least as early as October 2008. The current status of Opposer’s registration is attached hereto as Exhibit A.

2. Since commencing use of Opposer's Mark, Opposer has generated and continues to generate revenue from sales of products in connection with Opposer's mark in the United States. Additionally, Opposer has expended and continues to expend money, time, and effort in promoting and popularizing Opposer's Mark in the United States.

3. On July 31, 2014, Applicant applied to register the word mark HEY DOLL for use in connection with jewelry, namely earrings, rings, diamonds, necklaces, chains, bracelets, brooches, pins, and watches, in International Class 14. Applicant alleges a first use date of June 30, 2004.

4. Applicant's Mark is confusingly similar in appearance, sound, and meaning to Opposer's Mark.

5. Applicant's HEY DOLL mark constitutes a substantial portion of Opposer's HEY, DOLLFACE! mark and thus is substantially similar to Opposer's Mark.

6. Applicant's use of the HEY DOLL mark does or is likely to falsely suggest a relationship between Applicant's goods and Opposer's goods. Such registration and use of the Applicant's Mark is likely to cause confusion, mistake, or deception with respect to the source of Applicant's goods.

7. Applicant's identified goods are identical or so closely related to Opposer's goods that they are likely to be encountered by the same persons under circumstances that would lead to the mistaken belief that they originate from the same source and increase the likelihood of confusion.

8. Applicant does not identify or limit its application to any trade channels, and thus Applicant's and Opposer's goods may travel through the same and overlapping trade channels and may be provided to the same and overlapping classes of consumers.

9. Upon information and belief, before Opposer began using Opposer's Mark in commerce, Applicant did not use Applicant's Mark in commerce in connection with the sale and distribution of its goods.

10. Upon information and belief, before Opposer began using Opposer's Mark in commerce, Applicant was a private label accessories manufacturer. Before Opposer began using Opposer's Mark in commerce, Applicant entered into agreements with third parties in order for the third parties to sell and distribute Applicant's goods under the third parties' marks.

11. Upon information and belief, before Opposer began using Opposer's Mark in commerce, the goods manufactured or packaged by Applicant were not affixed with Applicant's Mark. Instead, Applicant affixed third parties' marks to the goods manufactured or packaged by Applicant, and consumers did not know Applicant as the source of Applicant's goods.

12. In the event of registration of Applicant's Mark, Opposer may be damaged by a loss of revenue and sales of goods marketed under Opposer's Mark, and damage to Opposer's reputation and the goodwill associated with Opposer's Mark.

WHEREFORE, Opposer respectfully requests that U.S. Serial No. 86353585 be refused registration in International Class 14.

Dated: December 2, 2015
New York, New York

Respectfully Submitted,
LINCOLN SQUARE LEGAL SERVICES, INC.

By: Ron Lazebnik
Ron Lazebnik

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New York, New York 10023
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Attorneys for Jennifer Macaluso

CERTIFICATE OF SERVICE


I hereby certify that a true and complete copy of the foregoing **NOTICE OF OPPOSITION** has been served on December 2, 2015, by mailing the true and complete copy via First Class Mail, postage prepaid to:

Attorney of record:

David A. Jackson
Klauber & Jackson
25 E Spring Valley Ave Ste 160
Maywood, New Jersey 07607

Correspondent in another proceeding:

Lawrence D. Mandel
Gertner Mandel & Peslak, LLC
P.O. Box 499
Lakewood, NJ 08701



Ron Lazebnik

EXHIBIT A

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Mark: HEY, DOLLFACE!

Hey, Dollface!

US Serial Number: 85811925
US Registration Number: 4380027
Filed as TEAS Plus: Yes
Register: Principal
Mark Type: Trademark
Status: Registered. The registration date is used to determine when post-registration maintenance documents are due.
Status Date: Aug. 06, 2013
Publication Date: May 21, 2013

Application Filing Date: Dec. 28, 2012
Registration Date: Aug. 06, 2013
Currently TEAS Plus: Yes

Mark Information

Mark Literal Elements: HEY, DOLLFACE!
Standard Character Claim: Yes. The mark consists of standard characters without claim to any particular font style, size, or color.
Mark Drawing Type: 4 - STANDARD CHARACTER MARK

Goods and Services

Note: The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((...)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks *..* identify additional (new) wording in the goods/services.

For: Jewelry
International Class(es): 014 - Primary Class
Class Status: ACTIVE
Basis: 1(a)
First Use: May 2008
U.S Class(es): 002, 027, 028, 050
Use in Commerce: Oct. 2008

Basis Information (Case Level)

Filed Use: Yes	Currently Use: Yes	Amended Use: No
Filed ITU: No	Currently ITU: No	Amended ITU: No
Filed 44D: No	Currently 44D: No	Amended 44D: No
Filed 44E: No	Currently 44E: No	Amended 44E: No
Filed 66A: No	Currently 66A: No	
Filed No Basis: No	Currently No Basis: No	

Current Owner(s) Information

Owner Name: Macaluso, Jennifer
Owner Address: 106 Tilson Place
Staten Island, NEW YORK 10305
UNITED STATES
Legal Entity Type: INDIVIDUAL
Citizenship: UNITED STATES

Attorney/Correspondence Information

Attorney of Record - None
Correspondent

Correspondent Name/Address: MACALUSO, JENNIFER
106 TILSON PL
STATEN ISLAND, NEW YORK 10305-1858
UNITED STATES
Phone: 646-420-4167
Correspondent e-mail: jenmacaluso@gmail.com
Correspondent e-mail Yes

Authorized:

Domestic Representative - Not Found

Prosecution History

Date	Description	Proceeding Number
Aug. 06, 2013	REGISTERED-PRINCIPAL REGISTER	
May 21, 2013	OFFICIAL GAZETTE PUBLICATION CONFIRMATION E-MAILED	
May 21, 2013	PUBLISHED FOR OPPOSITION	
May 01, 2013	NOTIFICATION OF NOTICE OF PUBLICATION E-MAILED	
Apr. 15, 2013	LAW OFFICE PUBLICATION REVIEW COMPLETED	66121
Apr. 13, 2013	ASSIGNED TO LIE	66121
Apr. 13, 2013	APPROVED FOR PUB - PRINCIPAL REGISTER	
Apr. 12, 2013	ASSIGNED TO EXAMINER	74845
Jan. 12, 2013	NOTICE OF PSEUDO MARK MAILED	
Jan. 11, 2013	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	
Jan. 01, 2013	NEW APPLICATION ENTERED IN TRAM	

TM Staff and Location Information

TM Staff Information - None

File Location

Current Location: PUBLICATION AND ISSUE SECTION

Date In Location: Aug. 06, 2013

United States of America
United States Patent and Trademark Office

Hey, Dollface!

Reg. No. 4,380,027

Registered Aug. 6, 2013

Int. Cl.: 14

TRADEMARK

PRINCIPAL REGISTER

MACALUSO, JENNIFER (UNITED STATES INDIVIDUAL)
106 TILSON PLACE
STATEN ISLAND, NY 10305

FOR: JEWELRY, IN CLASS 14 (U.S. CLS. 2, 27, 28 AND 50).

FIRST USE 5-0-2008; IN COMMERCE 10-0-2008.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

SER. NO. 85-811,925, FILED 12-28-2012.

NANCY CLARKE, EXAMINING ATTORNEY



Lisa Street Hu
Acting Director of the United States Patent and Trademark Office